

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN ASSEMBLY MAY 23, 2012

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 25, 2011

## **SENATE BILL**

**No. 379**

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**Introduced by Senator Fuller**

February 15, 2011

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An act to amend ~~Sections~~ *Section 275.6 and 739.3* of the Public Utilities Code, relating to telecommunications.

### LEGISLATIVE COUNSEL'S DIGEST

SB 379, as amended, Fuller. Telecommunications: universal service: regulation.

Existing law, the federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state, including telephone corporations, and to fix just and reasonable rates and charges for the public utility. Existing law establishes the state's universal service funds, including the California High-Cost Fund-A Administrative Committee Fund (CHCF-A) and the California High-Cost Fund-B Administrative Committee Fund (CHCF-B), in the State Treasury, and provides that moneys in each of the state's universal service funds are the proceeds of rates and are held in trust for the benefit of ratepayers and to compensate telephone corporations for their costs of providing universal service. Moneys in the funds may only be expended to accomplish specified telecommunications universal service programs, upon appropriation in the annual Budget Act or upon supplemental appropriation.

Existing law, until January 1, 2015, requires the commission to develop, implement, and maintain a suitable program to establish a fair and equitable local rate structure aided by universal service rate support to small independent telephone corporations that serve rural areas and are subject to rate-of-return regulation by the commission (the CHCF-A program).

This bill would revise the CHCF-A program to instead require the commission, until January 1, 2015, to exercise its regulatory authority to maintain the CHCF-A program to provide universal rate support to small independent telephone corporations in amounts sufficient to meet the revenue requirements established by the commission through rate-of-return regulation in furtherance of the state's universal service commitment to the continued affordability and widespread availability of safe, reliable, high-quality communications services in rural areas of the state. The bill would specify eligibility requirements for small independent telephone corporations to participate in the CHCF-A program and requirements for the commission in maintaining the program.

~~Pursuant to its authority, the commission adopted decisions implementing an incentive-based regulatory format called the new regulatory framework for certain telephone corporations. Existing law required the commission, by January 1, 2000, to commence a proceeding to consider whether to establish a new regulatory framework that (1) ensures that the public has universally available access to basic local exchange service, (2) applies appropriate rules to all telecommunications~~

service providers, and (3) encourages the provision of advanced, high-speed digital telecommunications services to the public.

~~This bill would require the commission, by January 1, 2014, to establish a streamlined process that allows small independent telephone corporations the option of being regulated under a small corporation uniform regulatory framework that includes underlying principles, policies, and full pricing flexibility, similar to the framework applicable to large- and mid-sized incumbent local exchange carriers.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. In making the changes made by this act to Section  
2 275.6 of the Public Utilities Code, it is the intent of the Legislature  
3 to preserve all of the following:

4 (a) Federal universal service funding for telephone corporations  
5 participating in the California High-Cost Fund-A Program, thereby  
6 reducing cost pressures on the program and minimizing the state  
7 surcharge levels necessary to fund the program.

8 (b) Application of the Federal Communications Commission's  
9 cost allocation and separation rules to the expenses and investments  
10 of telephone corporations that participate in the California  
11 High-Cost Fund-A Program.

12 (c) The discretion of the Public Utilities Commission in open  
13 Rulemaking 11-11-007 to establish the regulatory requirements  
14 for the California High-Cost Fund-A Program within the policy  
15 framework provided by this act.

16 SEC. 2. Section 275.6 of the Public Utilities Code is amended  
17 to read:

18 275.6. (a) The commission shall exercise its regulatory  
19 authority to maintain the California High-Cost Fund-A Program  
20 to provide universal service rate support to small independent  
21 telephone corporations in amounts sufficient to meet the revenue  
22 requirements established by the commission through rate-of-return  
23 regulation in furtherance of the state's universal service  
24 commitment to the continued affordability and widespread  
25 availability of safe, reliable, high-quality communications services  
26 in rural areas of the state.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Carrier of last resort” means a telephone corporation that is required to fulfill all reasonable requests for service within its service territory.

(2) “Rate base” means the value of a telephone corporation’s plant and equipment that is reasonably necessary to provide regulated voice services and access to advanced services, and upon which the telephone corporation is entitled to earn a reasonable rate of return.

(3) “Rate design” means the mix of end user rates, high-cost support, and other revenue sources that are targeted to provide an opportunity to meet the revenue requirement of the telephone corporation.

(4) “Rate-of-return regulation” means a regulatory structure whereby the commission establishes a telephone corporation’s revenue requirements, and then fashions a rate design to provide the company a fair opportunity to meet the revenue requirement.

(5) “Revenue requirement” means the amount that is necessary for a telephone corporation to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return on its rate base.

(6) “Small independent telephone corporations” are rural incumbent local exchange carriers subject to commission regulation.

(c) In administering the California High-Cost Fund-A Program, the commission shall do all of the following:

(1) Continue to set rates to be charged by the small independent telephone corporations in accordance with Sections 451, 454, 455, and 728.

(2) Employ rate-of-return regulation to determine a small independent telephone corporation’s revenue requirement in a manner that provides revenues and earnings sufficient to allow the telephone corporation to deliver safe, reliable, high-quality voice communication service and fulfill its obligations as a carrier of last resort in its service territory, and to afford the telephone corporation an opportunity to earn a reasonable return on its investments, attract capital for investment on reasonable terms, and ensure the financial integrity of the telephone corporation.

(3) Ensure that rates charged to customers of small independent telephone corporations are just and reasonable and are reasonably

1 comparable to rates charged to customers of urban telephone  
2 corporations.

3 (4) Provide universal service rate support from the California  
4 High-Cost Fund-A Administrative Committee Fund to small  
5 independent telephone corporations in an amount sufficient to  
6 supply the portion of the revenue requirement that cannot  
7 reasonably be provided by the customers of each small independent  
8 telephone corporation after receipt of federal universal service rate  
9 support.

10 (5) Promote customer access to advanced services and  
11 deployment of broadband-capable facilities in rural areas that is  
12 reasonably comparable to that in urban areas, consistent with  
13 national communications policy.

14 (6) Include all reasonable investments necessary to provide for  
15 the delivery of high-quality voice *communication* services and the  
16 deployment of broadband-capable facilities in the rate base of  
17 small independent telephone corporations.

18 (d) In order to participate in the California High-Cost Fund-A  
19 Program, a small independent telephone corporation shall meet  
20 all of the following requirements:

21 (1) Be subject to rate-of-return regulation.

22 (2) Be subject to the commission's regulation of telephone  
23 corporations pursuant to this division.

24 (3) Be a carrier of last resort in their service territory.

25 (4) Qualify as a rural telephone company under federal law (47  
26 U.S.C. Section 153(37)).

27 (e) The commission shall structure the programs required by  
28 this section so that any charge imposed to promote the goals of  
29 universal service reasonably equals the value of the benefits of  
30 universal service to contributing entities and their subscribers.

31 (f) This section shall remain in effect only until January 1, 2015,  
32 and as of that date is repealed, unless a later enacted statute, that  
33 is enacted before January 1, 2015, deletes or extends that date.

34 ~~SEC. 3. Section 739.3 of the Public Utilities Code is amended~~  
35 ~~to read:~~

36 ~~739.3. (a) The commission shall develop, implement, and~~  
37 ~~maintain a suitable program to establish a fair and equitable local~~  
38 ~~rate structure aided by universal service rate support to small~~  
39 ~~independent telephone corporations serving rural and small~~  
40 ~~metropolitan areas. The purpose of the program shall be to promote~~

1 the goals of universal telephone service and to reduce any disparity  
2 in the rates charged by those companies.

3 (b) ~~For purposes of this section, small independent telephone~~  
4 ~~corporations means those independent telephone corporations~~  
5 ~~serving rural areas, as determined by the commission.~~

6 (e) ~~The commission shall develop, implement, and maintain a~~  
7 ~~suitable, competitively neutral, and broadband program to~~  
8 ~~establish a fair and equitable local rate support structure aided by~~  
9 ~~universal service rate support to telephone corporations serving~~  
10 ~~areas where the cost of providing services exceeds rates charged~~  
11 ~~by providers, as determined by the commission. The commission~~  
12 ~~shall develop and implement the program on or before October 1,~~  
13 ~~1996. The purpose of the program shall be to promote the goals~~  
14 ~~of universal telephone service and to reduce any disparity in the~~  
15 ~~rates charged by those companies. Except as otherwise explicitly~~  
16 ~~provided, this subdivision does not limit the manner in which the~~  
17 ~~commission collects and disburses funds, and does not limit the~~  
18 ~~manner in which it may include or exclude the revenue of~~  
19 ~~contributing entities in structuring the program.~~

20 (d) ~~The commission shall structure the programs required by~~  
21 ~~this section so that any charge imposed to promote the goals of~~  
22 ~~universal service reasonably equals the value of the benefits of~~  
23 ~~universal service to contributing entities and their subscribers.~~

24 (e) ~~The commission shall investigate reducing the level of~~  
25 ~~universal service rate support, or elimination of universal service~~  
26 ~~rate support in service areas with demonstrated competition.~~

27 (f) ~~By July 1, 2010, the commission shall prepare and submit~~  
28 ~~to the Legislature a report on the affordability of basic telephone~~  
29 ~~service in areas funded by the California High-Cost Fund-B~~  
30 ~~Administrative Committee Fund. The report, among other things,~~  
31 ~~shall provide information on prices and costs of basic telephone~~  
32 ~~service, and penetration and utilization rates of basic telephone~~  
33 ~~service by income, ethnicity, age, and other demographic~~  
34 ~~characteristics, using surveys and other methods of identifying the~~  
35 ~~factors affecting affordability of basic telephone service for~~  
36 ~~customers and nonecustomers. The report shall describe the~~  
37 ~~characteristics of nonecustomers and their reasons for not having~~  
38 ~~telephone service. The report shall identify those persons most at~~  
39 ~~risk of losing basic telephone service. The report shall be funded~~

1 out of the California High-Cost Fund-B Administrative Committee  
2 Fund.

3 ~~(g) By January 1, 2014, the commission shall establish a~~  
4 ~~streamlined process that allows a small independent telephone~~  
5 ~~corporation the option of being regulated under a small corporation~~  
6 ~~uniform regulatory framework that includes underlying principles,~~  
7 ~~policies, and full pricing flexibility, similar to the framework~~  
8 ~~applicable to large- and mid-sized incumbent local exchange~~  
9 ~~carriers. The small corporation uniform regulatory framework~~  
10 ~~should take effect no later than 180 days from the date that the~~  
11 ~~small independent telephone corporation chooses to adopt the~~  
12 ~~small corporation uniform regulatory framework. Nothing in this~~  
13 ~~section prohibits a small independent telephone corporation opting~~  
14 ~~into regulation pursuant to this subdivision from participating in~~  
15 ~~the California High-Cost Fund-B Program.~~

16 ~~(h) This section shall only apply to the California High-Cost~~  
17 ~~Fund-B Administrative Committee Fund program.~~

18 ~~(i) This section shall remain in effect only until January 1, 2015,~~  
19 ~~and as of that date is repealed, unless a later enacted statute, that~~  
20 ~~is enacted before January 1, 2015, deletes or extends that date.~~